UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/862,828	05/22/2001	Neil W. Taylor	971-128	8874

7590 04/06/2006	EXAMINER
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ART UNIT	PAPER NUMBER
2135	

DATE MAILED: 04/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>09 January 2006</u>.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-4 and 7-22</u> is/are pending in the application.

　　4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-4 and 7-22</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

　　Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

　　Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

　　a)☐ All　b)☐ Some * c)☐ None of:

　　　1.☐ Certified copies of the priority documents have been received.

　　　2.☐ Certified copies of the priority documents have been received in Application No. _____.

　　　3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

　　* See the attached detailed Office action for a list of the certified copies not received.

DETAILED ACTION

1.   This Office Action is responding to the Amendment received on 01/19/06.

2.   Claims 1-4 and 7-22 are pending.

Claim Rejections - 35 USC § 103

3.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4.   Claim s 1-4, and 7-22 are rejected under 35 U.S.C. 103(a) as being unpatentable

over Slivka et al, US/5493649, hereinafter "Slivka", in view of Angelo,

US/5944821, (Cited in PTO 892 dated in 10/03/05 and 05/19/05).

5.   As per claims 1 and 16:

Slivka discloses "A method for validating executable code resident in an

operating system having executable instructions, comprising the steps of: identifying an

executable code having an unaltered size (not corrupted)" in (Col 3 lines 1-25, and Col

4 lines 1-5); "calculating an initial score associated with the executable code when the

executable code is initially or shortly thereafter loaded into an operating system; saving

the initial score" in (Col 3 lines 15-43); calculating a plurality of subsequent score on the

executable code; exclusively comparing each of the comparing the subsequent score to

the saved initial score and to no other scores;" in (See Abstract, Col 3 lines 43-67); "if

the each of the subsequent scores do not vary from the saved initial score, concluding

the executable code maintains the unaltered size; and "if any of the subsequent scores

vary from the saved score, concluding the executable code has an altered size

(Corrupted program code, which is not equal)" in (Col 3 line 67 to Col 4 line 15). Slivka

does discloses a method of calculating a plurality of subsequence score on the

executable code after the executable code is launched for use in (Col 5 lines 30-50)

However, Slivka does not specifically disclose the limitation "one of randomly and

substantially each time the executable code is launched for use, calculating a plurality of

subsequent scores on the executable code;"

Nevertheless, Angelo does disclose a method of calculating a score, substantially each

time the executable code is launched for use in (Col 9 line 45 to Col 10 line 35).

Therefore, it would have been obvious at the time of the invention was made for one

having ordinary skill in the art to modify Slivka's invention to incorporate Angelo secure

executing the executable code everytime it is being launched or requested with a motivation of

providing safestart everytime executing a program (Angelo, Col 9 lines 25-35).

6.   As per claims 2, and 13:

Slivka discloses "The method of claims 1 and 8, further comprising the steps of:

unloading the executable code from the operating system if the saved score is not equal to the

subsequent score" in (Col 5 lines 3-10).

7.   As per claims 3 and 17:

Slivka discloses "The method of claims 1 and 16, further comprising the steps of:

disabling at least a portion of the executable code if the saved initial score is not equal to any of

the subsequent score" in (Col 5 lines 3-10)

8.   As per claims 4 and 10:

Slivka discloses "The method of claim 1, wherein the scores are the result of a checksum

calculation" in (Col 3 lines 30-35).

9.   As per claims 7, 9, and 20:

Slivka discloses "The method of claims 1, 8, and 16, further comprising the steps of:

notifying electronically an owner of the executable code if the saved initial score is not equal to

any of the subsequent score" in (Col 5 lines 3-10).

10.   As per claims 8 and 21-22:

Slivka discloses "A method for disabling executable code which has been

modified without authorization having executable instructions, "comprising the steps of:

identifying an executable code in an operating system having an unaltered format (not

corrupted)" in (Col 3 lines 1-25, and Col 4 lines 1-5); "calculating a score associated

with an the executable code exclusively within an operating system of a computing

device independent of a system management mode of operation" in (Col 2 line 55 to Col

2 line 5); "calculating subsequent scores, the determining exclusively comparing each of

the subsequent scores to the score with no other score comparisons occurring; and

disabling the executable code if the score is not equal to any of the subsequent scores"

" in (Col 3 line 67 to Col 4 line 15). Slivka does discloses a method of calculating a

plurality of subsequence score on the executable code after the executable code is

launched for use in (Col 5 lines 30-50)

However, Slivka does not specifically disclose the limitation "one of randomly and

substantially each time the executable code is launched for use, calculating subsequent scores

associated with the executable code;"

Nevertheless, Angelo does disclose a method of calculating a score, substantially each

time the executable code is launched for use in (Col 9 line 45 to Col 10 line 35).

Therefore, it would have been obvious at the time of the invention was made for one

having ordinary skill in the art to modify Slivka's invention to incorporate Angelo secure

executing the executable code everytime it is being launched or requested with a motivation of

providing safestart everytime executing a program (Angelo, Col 9 lines 25-35).

11.   As per claims 11-12, and 18:

Slivka discloses "The method of claims 8 and 16, further comprising the steps of:

receiving one or more additional scores periodically on the executable code and disabling the

executable code if any of the subsequent score is not equal" in (Col 3 lines 40-60).

12.   As per claim 14:

Slivka discloses "The method of claim 8, further comprising the steps of: assisting in the loading of the executable code, if not disabled, to a memory of an operating system wherein the executable code resides" in (Col 5 lines 3-10).

13.   As per claim 15:

Slivka discloses "The method of claim 8, further comprising the steps of: registering the executable code if not disabled; and recording a history if the executable code is disabled" in (Col 5 lines 3-10).

14.   As per claim 19:

Slivka discloses "The method of claim 16, wherein the subsequent score is received each time the executable code is initiated in the memory for an execution" in (Col 1 lines 55-67).

Response to Arguments

15.   Applicant has amended claims 1, 8, 16, 21, and 22, which necessitated new grounds of rejection. See Rejections above.

Conclusion

16.   Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in

37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the date of this

final action.

17.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Linh LD Son whose telephone number is 571-

272-3856. The examiner can normally be reached on 9-6 (M-F).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Kim Vu can be reached on 571-272-3859. The fax phone number for the

organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Linh LD Son
Examiner
Art Unit 2135

HOSUK SONG
PRIMARY EXAMINER